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SUBJECT: SPANISH JUDGE DEPARTS GUATEMALA EMPTY-HANDED

¶1. Summary: Spanish judicial personnel departed Guatemala without having obtained any official testimony regarding the 1980 burning of the Spanish Embassy and the deaths of two Spanish citizens. They did, however, draw international attention to the lack of activity by the Guatemalan authorities to investigate these and other abuses during the period of the internal conflict. End summary.

#### Spanish Courts and Guatemalan Courts

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¶2. Santiago Pedraz, a Spanish judge, and Jesus Alonso, a Spanish prosecutor, visited Guatemala June 24 - July 1 to investigate the burning of the Spanish Embassy and the death of two Spanish citizens in 1980 during the internal conflict. Upon arrival in Guatemala, the Spaniards also noted their intention to investigate genocide cases from the same era. The Spaniards had hoped to stay until July 4 to interview authorities from the governments of that era, including former heads of state Efraim Rios Montt and Oscar Mejia Victores.

¶3. Several of those to be called to testify filed legal challenges to the jurisdiction of the Spanish officials. Rios Montt, in particular, obtained from the Guatemalan Constitutional Court (CC) a provisional measure suspending the Spaniard's deposition. The CC issued its provisional ruling June 27, with one CC judge describing the decision as procedural rather than substantive, since the Supreme Court had not provided all the necessary paperwork. Spanish officials could therefore not conduct formal interviews. They paid courtesy calls on Guatemalan prosecutors and met with NGO representatives but gathered no official testimony.

#### Court of Public Opinion

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¶4. Nobel laureate Rigoberta Menchu filed charges in Spain in 1999. Her father was one of the indigenous and student leaders who seized the Spanish Embassy in January 1980 and then died in the fire that consumed the building. There are conflicting versions of who started the fire -- some say it was the police, others say it was the hostage-takers who misfired a Molotov cocktail. The Menchu Foundation's legal advisor recognized the jurisdictional issues that the Spanish faced but noted the weakness of the Guatemalan judicial system.

¶5. Several NGO leaders told us that they viewed the GOG's cooperation with the Spaniards as a litmus test for the GOG's commitment to human rights. When pressed, these leaders vowed adherence to the concept of "universal jurisdiction" for human rights questions, but grudgingly agreed that jurisdictional questions were not without merit. Nonetheless, they welcomed the international attention that the Spanish action had brought to unresolved cases in Guatemala. Indeed, dozens of family members of the disappeared gathered at the Supreme Court to demand investigations into their cases as well.

#### Comment

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¶6. Guatemalan Republican Front (FRG) leaders close to Rios Montt

told us they considered the highly-publicized arrival of Pedraz and Alonso to be "pure show" and rejected out of hand any Spanish jurisdiction in these cases. They were confident that Rios Montt's lawyers would win the jurisdiction challenge and other procedural motions but could also win on the merits if it ever came to that. They also claimed that Menchu had inappropriately used her position as GOG Goodwill Ambassador in order to lure the Spanish judge and prosecutor to Guatemala. They noted that Rios Montt was resorting to legal defense maneuvers that were well within his constitutional rights.

¶7. Nonetheless, the attention brought about by the Spaniards' visit was a useful reminder to the GOG that many cases from the 1960-1996 internal conflict have not been investigated or resolved to anyone's satisfaction.

DERHAM